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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,687	11/12/2003	David E. Wolf	04037-011002	6999

26191 7590 10/26/2006

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EXAMINER	
YOON, TAE H	

ART UNIT	PAPER NUMBER
1714	

DATE MAILED: 10/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/706,687	WOLF, DAVID E.	
	Examiner	Art Unit	
	Tae H. Yoon	1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 September 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-16 and 19-21 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 12-26 and 31-82 of U.S. Patent No. 6,126,936. Although the conflicting claims are not identical, they are not patentably distinct from each other because the composite microreactor of said patent encompasses the instant article having a monodisperse polymer as evidenced by example 2 (600 μm spheres are taught) of said patent. Polylisine having a coating of different molecular weights meets the claim 20 since the difference is not defined.

The rejection is maintained with following response.

Claims recite "said coating **comprising** a monodisperse polymer" as asserted by applicant, but said **comprising** permits the presence of other polymer having different molecular weights. Especially, claims are silent as to the amount of said monodisperse

polymer, and thus a fraction of a polymer having same molecular weight in said patent would meet the invention since some of polymer molecules have same molecular weight inherently.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 5, 6, 8-11, 13-16 and 19-21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Goosen et al (US 4,806,355).

Rejection is maintained for reason of record with following response.

Claims recite "said coating **comprising** a monodisperse polymer" as asserted by applicant, but said **comprising** permits the presence of other polymer having different

molecular weights. Especially, claims are silent as to the amount of said monodisperse polymer, and thus a fraction of a polymer having same molecular weight in said patent would meet the invention since some of polymer molecules have same molecular weight inherently.

Claims 1-16 and 19-21 are rejected under 35 U.S.C. 103(a) as obvious over Goosen et al (US 4,806,355).

Rejection is maintained for reason of record with following response.

Claims recite "said coating **comprising** a monodisperse polymer" as asserted by applicant, but said **comprising** permits the presence of other polymer having different molecular weights. Especially, claims are silent as to the amount of said monodisperse polymer, and thus a fraction of a polymer having same molecular weight in said patent would meet the invention since some of polymer molecules have same molecular weight inherently.

Claims 1-3, 5, 6, 8-11, 13-17 and 19-21 are rejected under 35 U.S.C. 103(a) as obvious over Goosen et al (US 4,806,355) and Kliment et al (US 3,551,556).

Rejection is maintained for reason of record with following response.

Claims recite "said coating **comprising** a monodisperse polymer" as asserted by applicant, but said **comprising** permits the presence of other polymer having different molecular weights. Especially, claims are silent as to the amount of said monodisperse polymer, and thus a fraction of a polymer having same molecular weight in said patent

would meet the invention since some of polymer molecules have same molecular weight inherently.

Claims 1,2, 5, 8-11, 13-16, 19 and 21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Weber et al (US 5,227,298).

Rejection is maintained for reason of record with following response.

Claims recite "said coating **comprising** a monodisperse polymer" as asserted by applicant, but said **comprising** permits the presence of other polymer having different molecular weights. Especially, claims are silent as to the amount of said monodisperse polymer, and thus a fraction of a polymer having same molecular weight in said patent would meet the invention since some of polymer molecules have same molecular weight inherently.

Claims 1, 2, 5, 8-11, 13-16 and 19-21 are rejected under 35 U.S.C. 103(a) as obvious over Weber et al (US 5,227,298).

Rejection is maintained for reason of record with following response.

Claims recite "said coating **comprising** a monodisperse polymer" as asserted by applicant, but said **comprising** permits the presence of other polymer having different molecular weights. Especially, claims are silent as to the amount of said monodisperse polymer, and thus fractions of a polymer having same molecular weight in said patent

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Rejection is maintained for reason of record with following response.

Claims recite "said coating **comprising** a monodisperse polymer" as asserted by applicant, but said **comprising** permits the presence of other polymer having different molecular weights. Especially, claims are silent as to the amount of said monodisperse polymer, and thus a fraction of a polymer having same molecular weight in said patent would meet the invention since some of polymer molecules have same molecular weight inherently.

Claims 1-16 and 19-21 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lanza et al (US 6,126,936).

Rejection is maintained for reason of record with following response.

Claims recite "said coating **comprising** a monodisperse polymer" as asserted by applicant, but said **comprising** permits the presence of other polymer having different molecular weights. Especially, claims are silent as to the amount of said monodisperse polymer, and thus a fraction of a polymer having same molecular weight in said patent would meet the invention since some of polymer molecules have same molecular weight inherently.

Claims 1-17 and 19-21 are rejected under 35 U.S.C. 103(a) as obvious over Lanza et al (US 6,126,936) and Kliment et al (US 3,551,556).

Rejection is maintained for reason of record with following response.

Claims recite "said coating **comprising** a monodisperse polymer" as asserted by applicant, but said **comprising** permits the presence of other polymer having different molecular weights. Especially, claims are silent as to the amount of said monodisperse polymer, and thus a fraction of a polymer having same molecular weight in said patent would meet the invention since some of polymer molecules have same molecular weight inherently.

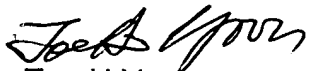
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H. Yoon whose telephone number is (571) 272-1128. The examiner can normally be reached on Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tae H Yoon
Primary Examiner
Art Unit 1714

THY/October 19, 2006